**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.8323 OF 2004**

Navi Mumbai Garlic Merchant
Association Navi Mumbai & Ors. ...Petitioners
Vs.
State of Maharashtra & Ors. ...Respondents

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Mr.Bhalwal i/b. M/s. Vyas & Bhalwal Adv. for Petitioners
Mr. G.S. Hegde Adv. for Respondent No.1
Mr. Lagu for Mr. A.A. Garge Adv. for Respondent No.2
Mr. C.J.Sawant with Mr. N.N. Bhadrashete Adv. for Respondent No.3

**WITH**

**WRIT PETITION NO.7900 OF 2004**

Navi Mumbai Kanda Batata Adate
Vyapari Seva Sangh ...Petitioners
Vs.
Mumbai Agril Prodc. Market
Committee & Ors. ...Respondents

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Mr.P.N.Khankar Adv. for Petitioner
Mr. C.J.Sawant with Mr. N.N. Bhadrashete Adv.for Respondent No.1
Mr. Lagu for Mr. A.A.Garge Adv. fpr Respondent No.2
Mr.G.S.Hegde Adv. for Respondent NO.3
Mr. P.S. Dani Adv. for Respondent NO.4
Mr. R.M. Patne, A.G.P. for Respondent No.5

**WITH**

**WRIT PETITION NO.8177 OF 2004**

Kanda Batata Adate ...Petitioner
Vs.
The State of Maharashtra & Ors. ...Respondents

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**CORAM: H.L.GOKHALE &**
**SMT.R.S.DALVI,JJ.**
**DATED: 12TH JULY, 2005**

**P.C.**

1. Out of these three Petitions Petition No.8177

of 2004 has not been pressed. Mr. Khankar has appeared for the Petitioner in Writ Petition No.7900 of 2004 and Mr. Bhalwal in Writ Petition No.8323 of 2004.

2. The Mumbai Agricultural Produce Market Committee wants to reconstruct the various halls and buildings which are provided to the wholesalers operating in the A.P.M.C. area at Navi Mumbai. This re-construction has become necessary because many of the halls and buildings have become dilapidated. The Petitioners raised various objections and the matter was gone in at length by earlier Division Bench which was not impressed by the objections raised and that is recorded in the order dated 23rd December, 2004.

3. The Division Bench was however of the view that some of the objections particularly with respect to the construction and the likelihood of traffic jam, should be gone into through an Architect who was appointed to look into all these matters. One Mr. Patwardhan took up this responsibility. He gave a hearing to all concerned and thereafter has made a report. Report is dated 4th May, 2005. Report was made available to all the parties.

4. We have gone through the report and, by and large we find that the objections have been dealt

with. Now there is going to be one **"L"** shaped shopping complex, and another row of shops. This construction is going to be made to raise the funds required for repairing/reconstructing the other buildings/halls required for the wholesalers. The wholesalers are declining to contribute for the repairs and reconstruction on the ground that they are paying their contributions to the Market Committee regularly and the Market Committee has sufficient funds. The Market Committee is however, of the view that separate funds should be arranged for this re-construction and therefore, from those funds the re-construction work is to be done. We have seen the Report of the Architect. We do not find anything which is left out by the Architect and for which we should interfere in the matter. We however, note the objection raised by the parties with respect to the row of shops which are to be constructed on the side of the Vashi Turbhe road. They submit that the width of the internal road will get reduced and sufficient space will not be available for the trucks to move around. In view of these objections, they have submitted that first the "L" typed Mall be constructed. It may be seen as to how much funds are raised in that construction and at that stage a review be taken of the financial position. It is submitted that if sufficient funds are raised then the row shops may not become necessary. Alternatively they may

utilise that F.S.I. elsewhere.

5. We see the merit in the submission and direct the Market Committee to first construct the **"L"** shaped complex, then take a review of the financial position. At that stage a decision will be taken whether the Row Shops are necessary for further funds or the F.S.I. should be utilised elsewhere. However, that will be the decision of Market Committee and we leave it to the Market Committee to take a fair decision. The Petitions stand disposed of with this order.

**(H.L.GOKHALE,J.)**

**(SMT.R.S.DALVI,J.)**